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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/711,398

09/16/2004

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EXAMINER

RENDON, CHRISTIAN E

ART UNIT

PAPER NUMBER

3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/711,398	Applicant(s) RIGOPULOS, ALEXANDER P.	
	Examiner CHRISTIAN E. RENDÓN	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7,11-17,19-21,23 and 81-104 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7,11-17,19-21,23 and 81-104 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/09/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

This office action is in response to the amendment filed on January 9, 2008 in which applicant responds to the claim rejections. Claims 1, 2, 7, 11-17, 19-21,23,81-104 are still pending

Claim Rejections - 35 USC § 103

Claim 1, 19-20, 23 & 86 are rejected under 35 U.S.C. 103(a) as being unpatentable by Final Fantasy Anthology: Collector's Edition (<http://psx.ign.com/articles/161/161674p1.html>) further evidence provided by a Final Fantasy Walkthrough (<http://www.gamefaqs.com/console/snes/file/554041/7104>).

1. Video game reviewer, Francesca Reyes discloses that the video game company Square released a CD-ROM version of 'Final Fantasy V and VI' in bundle package or a collector's edition that also included a "music CD compilation of fan-elected music tracks from each title" (par. 2). 'Final Fantasy VI' which was originally titled 'Final Fantasy III' when it was first released in the United States in 1994 is considered a legendary game by most for its beautiful soundtrack that complements a compelling story involving a large cast of unique characters. There are so many unique portions of the story that many key or fun chapters have nicknamed: 'The Search for Terra', 'The Esper World', and 'The Opera Scene.' In the 'opera scene' the player must prevent the kidnapping of Maria the opera singer by having the character Celes sing in her place. In order for the player to progress further in the story, he or she must memorize the lines to the opera called "Aria di Mezzo Caratter" before 'performing' in front of the audience. Once on stage the player must choose from a list of lines the next correct line before time runs out or he or she will have to repeat the whole scene. A player will receive a 'game over' scene if he or she fails three times. The bundled CD only contained a small collection of songs from both Final Fantasy games and the aria was one of the songs left out of the soundtrack. If the song was chosen then the bundle would offer a CD containing the soundtrack of a

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game that has a portion of the story based on musical content. The Office views the applicant's claim as obvious result of the inclusion of the aria since the actual weight in the claims is containing 'a musical portion of a game with music content' and deciding a soundtrack list is mere design choice. Furthermore the soundtrack contains songs found exclusively in the video game in a music playback format.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Final Fantasy

Anthology: Collector's Edition in view of www.samgoody.com.

2. The above description of 'Final Fantasy Anthology' and the limitations they pertain is considered within the art rejection as well. The prior art is silent about where the 'Final Fantasy Anthology: Collector's Edition' is sold. The Sam Goody website is used to represent the physical store and an online music store. Sam Goody is known as specialty music store but they do sell other products like books, videogames and movies. Therefore a music store like Sam Goody would sell a video game in proximity to the quantum of music content when they are offering this edition of 'Final Fantasy Anthology.'

Claims 11-17, 81 and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Final

Fantasy Anthology: Collector's Edition in view of Karaoke Revolution

(<http://ps2.ign.com/articles/458/458064p1.html>) and in further view of Karaoke Revolution

FAQS (<http://www.gamefaqs.com/console/ps2/file/914993/28658>).

3. The above description of 'Final Fantasy Anthology' and the limitations they pertain is considered within the art rejection as well. The prior art fails to disclose the use of a spatial path to visually describe the progress of the song. However the PlayStation 2 (PS2) version of 'Karaoke Revolution' (KR) game discloses the use of a spatial path as a musical time axis. A player begins by choosing a character and customizing their style to represent the player's inner musician. The character resembles a musician since they are holding a microphone when he or she is on stage. The

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game also contains an innovative scoring system that ranks a player on their rhythm and pitch (KR: par. 4). The audience's reaction and your computer-generated musician's movements and appearances are based on a player performance (KR: par. 4). Therefore a player will encounter a better game experience as he or she improves through practice. A player can practice the songs by entering into one of two modes: 'Karaoke' or 'Training' mode (FAQS). Since the player is not scored or rated, he or she can concentrate on learning the songs by having the game fully play back the song and listening for the different pitches and rhythms. It would have been obvious to one of ordinary skill to include a compilation of these songs on a single CD with the game as a study aid for the player away from the gaming system. A music CD with these songs that are sung by artist of different genres on a single CD would make practicing more convenient for a player since all of the necessary songs can be found in one central place. Furthermore the idea of selling a game soundtrack with the respective game is a practice well known in the art of gaming and is taught by 'Final Fantasy Anthology' within this rejection.

4. Regarding claim 83, the musician is either the player or the computer-generated character. The musician previously performed the entire musical content the last time the player sang those songs while playing the game.

Claims 84-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Final Fantasy Anthology: Collector's Edition in view of Karaoke Revolution (PS2) in further view of one of ordinary skill.

5. The above description of 'Final Fantasy Anthology,' 'Karaoke Revolution' (PS2) and the limitations they pertain is considered within the art rejection as well. The art combination fails to disclose the use of mp3 and wav as the music playback format. Since these two music formats fulfill the same function the prior art's disclosed practice modes and the music CD, these two limitations are viewed, as mere design choice therefore carry no patentable weight.

Claims 87-89 and 95-104 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karaoke Revolution (<http://www.gamespot.com/xbox/puzzle/karaokerevolution/news.html?sid=6105361&mode=recent>) in view of Karaoke Revolution FAQs (<http://www.gamefaqs.com/console/ps2/file/914993/28658>) and in further view of XBOX Live Launch Center (<http://www.gamespot.com/gamespot/features/all/xboxlive/index-vq.html>).

6. The above description of 'Karaoke Revolution' (PS2) and the limitations they pertain is considered within the art rejection as well. In August 2004 Konami announced, "an enhanced version of the first Karaoke Revolution will be released for the XBOX" (GameSpot: par. 1). The first version of 'Karaoke Revolution' was released for the PlayStation 2 and was described above. The XBOX version will feature a longer song list and support downloadable songs increasing the number of songs in the library (GameSpot: par. 2) via XBOX Live! An XBOX owner who purchases the 'Starter Kit' and provides an Internet connection to the system will gain access to the XBOX Live network (Launch Center). The 'Starter Kit' costs \$49.95, which includes a year-long subscription to the services. One of the services is access to free or priced downloadable content for certain games (Launch Center) in an attempt to increase the replay value. Therefore portions of the game like new songs are stored on a server and offered to players through an online store. The Office would like to clarify that even if the songs were offered for free by XBOX Live, the network is still a store since you have to pay to gain access to the network and the person is paying for the songs through the membership fee.

7. Regarding claims 87-88, a player can practice the songs by entering into one of two modes: 'Karaoke' or 'Training' mode (FAQS). Since the player is not scored or rated, he or she can concentrate on learning the songs by having the game fully play back the song. Therefore the game offers a form of music play back that is not a game.

Claims 90-92 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karaoke Revolution (PS2 and XBOX) in view of Karaoke Revolution FAQs and in further view of one of ordinary skill.

8. The above description of 'Karaoke Revolution' (PS2 and XBOX version) and the limitations they pertain is considered within the art rejection as well. The prior art fails to disclose the use of mp3, wav and aiff as the music playback format. Since these three music formats fulfill the same function the prior art's disclosed practice or music playback modes, these three limitations are viewed, as mere design choice therefore carry no patentable weight.

Claims 2 and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karaoke Revolution (PS2 and XBOX) in view of Dance Dance Revolution (<http://psx.ign.com/articles/161/161525p1.html>) and in further view of Amplitude (http://www.gamespot.com/ps2/puzzle/amplitude/review.html?om_act=convert&om_clk=tabs&tag=tabs;reviews).

9. The above description of 'Karaoke Revolution' (PS2 and XBOX) and the limitations they pertain is considered within the art rejection as well. The genre of music-based video games as also commonly known as rhythm-action video game. As a music video game tries create a style or niche it can be further classified because of the gameplay. 'Karaoke Revolution' can be further classified as a sing-along character-action game. The prior art fails to offer a dance-along, a first or third-person shooter portion in the game. However the review of 'Dance Dance Revolution' (DDR) discloses the game as a dance-along character-action rhythm video game with the goal to dance or place your feet on the appropriate floor mat sensor in terms of the rhythm of the song. The review of 'Amplitude' reveals a rhythm game as a 3rd person shooter rhythm video game. The player controls a ship and must capture notes by shooting at them. Since a player can view the ship, the game is a 3rd person shooter. However one of ordinary skill could add a 1st person mode by simply offering a view from inside the ship. In other words, the references are brought into prosecution to express the point that

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creating a video game with may different portion of gameplay that would expand the game into other genres is well known in the art even for music-based video games. Therefore the applicant's limitations for this claim are obvious and not novel.

Claims 7 and 94 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karaoke Revolution (PS2) in view of Dance Dance Revolution and in further view of Kumar et al. (US 6,514,083 B1).

10. As previously disclosed 'Karaoke Revolution' uses a microphone as its musical game controller. The accuracy of the player's singing causes the computer-generated image to move to the beat (KR: par. 4). However the prior art is silent about allowing a player to control the computer-generated image's movement through a dance pad. The prior art is also silent about the use of a camera.

11. 'Dance Dance Revolution' (DDR) teaches the use of a dance pad to input movements at appropriate times and ultimately dictate the movements of a computer-generated image. Kumar teaches the implementation of a camera producing a series of video frames including at least one performer and a karaoke processor system providing a video environment for the karaoke performer. Kumar teaches the ability to extract images from the camera to be placed into the virtual environment of the karaoke video display (see abstract). Kumar teaches that one would be motivated to incorporate this element into a standard karaoke system to further enhance the "interactive participation of karaoke customers with their karaoke experience" (see col. 2: In 33-35). Therefore it would be obvious to one of ordinary skill in the art at the time of the invention to incorporate the camera of Kumar and the function of a dance pad as used by DDR with a home consol music-based game to create a more realistic karaoke experience.

Response to Arguments

Applicant's arguments filed January 9, 2008 have been fully considered but they are not persuasive. The Examiner disagrees with the applicant's argument towards the suggestion that the prior art alone or in combination fails to teach obtaining music licenses or handling the increased cost of the game. The review for the Final Fantasy Anthology completion discloses the incredible experience that awaits a fan of role-playing games (RPG) and beautiful music; stating 'This is the type of experience that cannot be beat even by many of today's RPG and for the package and price' (IGN: Closing Comment, par. 3, lines 7-8). Therefore the reference teaches creating a quality product will increase demand enough to compensate for the increased cost of packaging a CD and video game together. Furthermore the selling of video game soundtracks along with a game or separate is a common practice in the industry since companies like Square Enix hire skilled composer like Nobuo Uematsu to create songs and themes that are in light of the story and of various styles; therefore making the need for music licenses irrelevant and the selling of the 'Original Soundtrack' the only means of obtaining this original music on a music playback format. On the other hand Karaoke Revolution teaches containing several 'covers' of pop hits (TeamXbox: pg. 3, Audio, lines 2-5) that are frequently sung in karaoke bars. In other words, the song is not performed by the original artist therefore this reference teaches obtaining a music license for cover songs. Furthermore the GameSpot preview discloses 'Karaoke Revolution' will also contain a Motown addition of songs performed by the original artists (GameSpot: par 2) therefore also teaching obtaining music licenses for original recordings/performances. Finally the multiple references used to describe the scope of Karaoke Revolution for the XBOX is sufficient for the rejection of the applicant's claims towards obtaining more/extra songs (GameSpot: par. 2) for a music based game (Karaoke Revolution) through an online-store (XBOX Live). However the Examiner would like point out another reference (<http://reviews.teamxbox.com/xbox/855/Karaoke-Revolution/p1/>) that provides more details on

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the 'downloadable songs' mentioned in the GameSpot preview of the game. The developer 'Secret Level' included 50 songs and the option of downloading more songs (TeamXbox: pg. 3, Overall Gameplay, par. 2, lines 4-7). The downloadable songs are available in packs of 5 songs at \$4.99 a pack (TeamXbox: pg. 3, Audio, lines 6-10). Once again the Examiner states this reference is not necessary to reject the current claim limitations and is only provided to enlighten the applicant.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTIAN E. RENDÓN whose telephone number is (571)272-3117. The examiner can normally be reached on 9 - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CHRISTIAN E RENDÓN
Examiner
Art Unit 3714

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/XUAN M. THAI/

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Supervisory Patent Examiner, Art Unit 3714